

November 14, 2018

Mr. John Canoles
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

RE: Garrison Forest School
Forest Conservation Variance
Tracking # 02-18-2754

Dear Mr. Canoles:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on July 2, 2018. If granted, the variance would authorize both the removal of seven specimen trees and to base the forest conservation worksheet (FCW) on the proposed 0.9-acre limit of disturbance (LOD) necessary to construct a dormitory at the long standing campus. Payment of a fee in lieu of mitigating the specimen trees is proposed. Six of the seven specimen trees to be removed are native species in fair to good condition. Specimen tree #15, listed on the forest stand delineation as a 32.5" DBH black oak in poor condition, is actually in fair condition.

No forest conservation plan (FCP) was included in the initial submission. However, clarification regarding the scope of the FCP was received on October 11, 2018 indicating that the FCP and its FCW will be based on the entire campus, but addressing the reforestation may be prorated as this and any future project are submitted for EPS approval. Therefore, this variance shall only speak to the specimen tree removal, and the request to base the FCW on the dormitory project's LOD is considered rescinded.

The Director of EPS may grant a special variance to the Forest Conservation law in accordance with criteria outlined in Section 33-6-116 of the Baltimore County Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One of the three criteria under Subsection 33-6-116 (d) must be met, and all three of the criteria under Subsection 33-6-116 (e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116 (d)(1) of the Code) requires that the petitioner show that the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the

petitioner of all beneficial use of his property. The applicant is seeking to make improvements to a long standing private school. However, the property is already developed with academic facilities. Therefore, denying this variance would not deprive the petitioner of all beneficial use of the property. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions in the neighborhood. The petitioner's plight in fully meeting the Forest Conservation Law is due largely to engineering and logistical constraints for siting the proposed building rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116 (d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The building is proposed well within the interior of the campus. Furthermore, its purpose as an educational facility is in keeping with the general use of the school's property. Therefore, we find that the variance, as requested, will not alter the essential character of the neighborhood and that this criterion has been met.

The fourth criterion (Subsection 33-6-116 (e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. We have determined that the nearby Forest Buffer Easement will not be directly impacted by this project, and adequate water quality management of storm runoff will be provided in accordance with this Department's Storm Water Management Law. Therefore, we find that granting of the special variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116 (e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance which is the result of actions taken by the petitioner. The existing campus was developed well prior to the Forest Conservation Law, and the proposed dormitory must be sited in a manner that best serves the student body. These circumstances are not the result of prior actions taken by the petitioner. Therefore, we find that this criterion has been met.

The sixth criterion (Subsection 33-6-116 (e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Alternate locations for the building were considered, but it could not logistically be constructed elsewhere on campus. However, its location is as close to the access roads and other buildings as possible which minimizes forest clearing and impacts to additional specimen trees beyond the seven proposed for removal. Therefore, we find that this criterion has been met.

Mr. John Canoles
Garrison Forest School
Forest Conservation Variance
November 14, 2018
Page 3

Based on our review, this Department finds that the required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code contingent upon the following conditions:

1. A \$7,101 fee in lieu of specimen tree mitigation shall be paid to EPS prior to issuance of any grading or building permit for this project. The check must be made payable to Baltimore County.
2. Open areas of the Forest Buffer Easement onsite must be planted to meet reforestation requirements as much as possible. Any remaining reforestation may be addressed by purchasing credit in an EPS-approved forest conservation bank or by paying a fee in lieu of planting.
3. The following note must be on all plans for the project:

“A forest conservation variance was approved by Baltimore County EPS on November 14, 2018 to allow removal of seven specimen trees. Conditions were placed on this approval including payment of a fee in lieu of mitigation and reforestation of Forest Buffer Easement elsewhere on the property.”
4. A final FCP for the entire school property (approximately 100 acres) reflecting the conditions of this variance shall be submitted to EPS and approved prior to approval of the grading and sediment control plan for this project and its resultant reforestation addressed prior to permit issuance.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the appropriate school representative sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

Mr. John Canoles
Garrison Forest School
Forest Conservation Variance
November 14, 2018
Page 4

DVL/ges

- c. Mr. Steve Warfield, Matis Warfield, Inc.
Ms. Marian Honeczy, Dept. of Natural Resources

I/we agree to the above conditions to bring my/our property into compliance with
Baltimore County's Forest Conservation Law.

School Representative's Signature

Date

Printed Name